

**MINUTES OF THE  
AUBURN CITY PLANNING COMMISSION  
JULY 1, 2003**

The regular session of the Auburn City Planning Commission was called to order on July 1, 2003 at 6:30 p.m. by Chairman Nesbitt in the Council Chambers, 1225 Lincoln Way, Auburn, California.

**COMMISSIONERS PRESENT:** Hale, Manning, McCord, Smith, Chrm. Nesbitt

**COMMISSIONERS ABSENT:** None.

**STAFF PRESENT:** Will Wong, Community Development Director; Reg Murray, Associate Planner; Janet Ferro, Administrative Assistant

**ITEM I: CALL TO ORDER**

**ITEM II: PLEDGE OF ALLEGIANCE**

**ITEM III: APPROVAL OF MINUTES**

The minutes of June 17, 2003 were approved as submitted.

**ITEM IV: PUBLIC COMMENT**

None

**ITEM V: PUBLIC HEARING ITEMS**

**A. Tentative Subdivision Map and Use Permit – 10640 Indian Hill Road (Santa Barbara Subdivision) – File SUB 02-4; UP 03-3.**

The applicant requests approval of a tentative subdivision map to subdivide a 5.1 acre residential zoned parcel into seven (7) single-family lots. The request also includes a use permit to allow deviation from minimum lot size requirements.

Comm. Manning announced that as the senior minister and chief executive officer of Unity Church of Auburn, who sold this property to the applicant, he would recuse himself. Although there is no technical conflict as the

property was sold more than one year ago, he would like to avoid any appearance of conflict.

Reg Murray gave the staff report. He reviewed the location, lot size, zoning, grading, topography and drainage for this tentative subdivision map. He noted there is a Use Permit request in connection with this application to establish a Planned Unit Development allowing smaller residential lot sizes, as they would be creating an open space area by clustering the smaller lots. He noted that staff recommended approval of both applications.

Murray also noted a letter from Doug and Lenore Cagle, whose property in the Diamond Ridge Subdivision adjoins the subject property. They pointed out a 50-foot setback for lots on the east side of Diamond Ridge, because of the church which was originally to be developed on this site. They requested that the same 50-foot setback remain in place for this project, and also requested that a new fence be built along the west side of the planned subdivision.

Comm. McCord asked about the request for a new fence along the west side. Murray stated that there is currently a fence present, and after grading for the new subdivision has been completed, the new area will be somewhat lower. In view of this, he did not feel that a new fence should be required.

The public hearing was opened.

Jack Remington, civil engineer representing the applicant, explained that the layout of the project was to cluster the homes to preserve trees by not building on the steeper part of the property. He also noted that the 50-foot setback was put in when a church was to occupy this property. He felt that it would not be practical to have this setback as a condition in this residential subdivision. They are willing to comply with all conditions in the staff report.

Elinor Petuskey commented on the extensive development on Indian Hill Road over the last few years and the subsequent increase in traffic. She feels that the road has become very dangerous, with many driveway entrances of the older homes directly onto the road. The Newcastle Municipal Advisory Committee is pursuing this issue with Placer County; also the Newcastle Business Association is asking Placer County to make needed safety improvements to the road. Although she realizes that Auburn is not responsible for most of the problems on Indian Hill Road, she would like the City of Auburn to put pressure on Placer County to make funding for improvements on this road a priority.

The public hearing was closed.

Comm. Hale commented on the possibility of connecting subdivisions in the future as a way of limiting access points to Indian Hill.

Director Wong responded that where it makes sense and the topography is not too extreme, they do attempt to connect subdivisions. He noted that Placer County has allowed driveways to single family residences to enter on Indian Hill Road. The type of development in the City, while being denser, limits the number of access points onto Indian Hill Road. Individual driveways are not allowed and subdivisions access Indian Hill Road through a street.

Comm. Smith is not in favor of deviating from the current 20,000 square foot minimum lot size, as the applicant is proposing with the Use Permit. While he understood the developer's reasons for this request, the smaller the lots the more homes he can build and make more money, he has a problem with reducing the minimum lot size.

Chrm. Nesbitt stated he was still in favor of doing something with the setback on Lot 4, however he did not want to limit the options of the lot purchaser in developing that lot. He agreed with Comm. Smith about not reducing the current lot size, however he felt this project would improve the existing parcel and he is in favor of the project.

Comm. McCord **MOVED** to:

- A. Adopt the Negative Declaration prepared for the Santa Barbara Subdivision – 10640 Indian Hill Road (File # SUB 02-4; UP 03-3);
- B. Approve the Tentative Subdivision Map for the Santa Barbara Subdivision (File # SUB 02-4) – 10640 Indian Hill Road subject to the conditions listed in Exhibit “A” of the staff report;
- C. Adopt the findings of fact as required for the Use Permit for approval of a Planned Unit Development:

The establishment, maintenance, and/or conduct of the use for which the use permit is sought will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of such use and will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements

in such neighborhood or have an adverse effect on the inherent residential character of the City; and

- D. Approve the Use Permit for the Santa Barbara Subdivision (File # UP 03-3) – 10640 Indian Hill Road subject to the conditions and findings listed in Exhibit “A” of the staff report.

Comm. Hale **SECONDED**.

AYES: Hale, McCord, Chrm. Nesbitt  
NOES: Smith  
ABSTAIN: Manning  
ABSENT: None

The motion was approved.

The Chairman announced the 10-day appeal period.

- B. Use Permit and Variance – 446 Grass Valley Highway (Apex Honda) – File UP 88-45(B); BA 03-2.** The applicant requests an amendment to the existing Use Permit to allow outside storage. The request includes a Variance to deviate from the City’s sign requirements (i.e. exceed maximum size for a freestanding sign).

Reg Murray gave the staff report, giving history of the project. In 1988, the Planning Commission approved a use permit to allow operation of a motorcycle and power equipment sales and service business on the subject property. The use permit conditions of approval allowed an outdoor display of merchandise for sale, but limited the display area by designating a space in front of the service receiving area. In 2001, an amendment to the use permit was approved to allow additional display area of merchandising along the west side of the frontage road.

As of January 2003, the Community Development Department became aware that the motorcycle dealership was not in compliance with the conditions of approval for the existing use permit, and Murray reviewed the circumstances that conflict with the conditions. Staff has discussed the issues with the applicant and requested that they comply with the use permit conditions of approval, however the applicant is proposing to remedy these issues by requesting an amendment to the use permit and a variance to the sign requirements. Staff can support the applicant’s use permit request provided that there is resolution to the issue of the proposed storage area impacting the use of an access and parking agreement with Katrina’s Restau-

rant, the business located north of the motorcycle shop, as well as an existing right-of-way easement located east of the shop.

Murray advised that the applicant is also requesting approval of a variance to exceed the maximum allowable square footage for a freestanding sign. Staff recommends denial of the request for the following reasons: The sign proposed is a "pole" sign, considered aesthetically inappropriate in favor of "monument" signs; neighboring businesses comply with the City square footage requirements; and no plans have been provided to illustrate the appearance of the proposed sign.

The public hearing was opened.

Rolf Howard, applicant and owner of Apex Honda, stated that his business is growing and he needs additional outdoor storage space. He would like to store vehicles at both sides and behind the building.

Chrm. Nesbitt asked how Howard planned to police the area so that this road can also be used by Katrina's Restaurant owners and patrons. He added that he has a problem with non-compliance of use permit conditions.

Rolf described the 20-foot frontage road easement through the front of the property parallel to Grass Valley Highway; parking on the east side is on private property with parking on the curb side open to everyone. The previous owners of the motorcycle shop obtained a use permit to display merchandise in their parking area.

Comm. McCord inquired about staff's statement that they can support this request providing that the pending litigation is resolved. She felt this issue should be postponed until the litigation is settled.

Howard stated that the litigation is in regard to merchandise storage on the north side of the building. He said he did not believe that it would have any affect on the pending lawsuit if the Commission allowed storage in that area under this use permit request as the merchandise would be stored there only at night, access would be available from 9:00 a.m. to 5:00 p.m.

Howard stated that he has a court order from a superior court judge allowing them to use the area on the north side for storage at this time and he had counsel present for additional questions.

Michael Thomas, legal counsel for Apex Honda, stated that the court has issued an order denying the motion for preliminary injunction from the owner of Katrina's Restaurant. The court order allows Apex to park their

inventory in the area adjacent to the restaurant, but it had to be kept clear between 9:00 a.m. and 5:00 p.m., and this could be done until the trial. He suggested that if the Commission is concerned about the continued parking there, a temporary use permit would allow merchandise parking in this area until the matter is adjudicated early next year.

Regarding the easement on the east side of the building, Thomas stated there has been a chain link fence around that area for approximately five years. He is unclear as to what the easement is for and he felt that the existence of the fence for this length of time had essentially extinguished the easement.

Annie Embree, attorney for Kathy Arnold owner of Katrina's Restaurant, came to the lectern. She stated that a chain link fence had been erected by the applicant that extends along the north property line to the rear of the property. This blocks a license agreement that was granted to Kathy Arnold in 1972 and there is currently a dispute over the scope and validity of that license agreement. The license agreement states that it will remain in effect as long as the concrete block garage in the rear remains standing, and it is undisputed that the garage is still there. Until the issue is decided in court, she would like the area to remain free and open for the use of her clients. She would also ask that the Commission postpone its decision until the litigation is resolved as the court's decision could be extremely nuanced, there could be many scenarios other than one side prevailing completely. She would like the opportunity to present the findings of the court to the Commission so that a decision could be made based on the court's decision. She referred to the preliminary injunction noted earlier as allowing the applicant to store vehicles in the disputed easement area; she stated that what was litigated was not a land use issue and the conditional use permit was not raised during that hearing, it was regarding the validity of the license or an easement to that area. She believed it was within the authority of the Commission to require that the applicant comply with the current conditional use permit.

Attorney Thomas returned to state that there is a critical need for Apex to store merchandise on all sides of the building.

Attorney Embree returned to again ask that the Commission postpone their decision.

Kathy Arnold, owner of the restaurant property to the north of Apex, asked that the Commission postpone their decision until lawsuit is resolved.

Leslie Howard, co-owner of the Apex business, reiterated earlier comments.

The public hearing was closed.

Comm. Smith **MOVED** to continue this item until the litigation is settled.

Comm. McCord **SECONDED**.

Comm. Smith **MOVED** to amend his motion as follows:

Continue discussion of the Use Permit Amendment to September 2, 2003 in order to hear the decision on the legal issues pertaining to the license agreement affecting the northern portion of the Apex Honda property, with the following conditions:

1. No outdoor storage shall occur within the in license agreement area along the north property line.
2. Unrestricted access shall be provided to the license agreement area on a 24-hour basis.
3. Outdoor storage may be continued within the fenced yard on the south and east sides of the building.

Comm. Hale **SECONDED**.

Comm. Smith stated he felt this was a fair compromise as the applicant has been in violation of the condition in the past, and the Commission would allow them to continue some storage while leaving the north driveway easement open.

Chairman Nesbitt commented that he agreed with Comm. Smith. He also stated that if the applicant was essentially claiming adverse possession of the easements on the east/south sides of the property, then it was only fair to recognize the prescriptive easement on the north side of the property.

The vote on the amendment:

AYES:	Hale, Manning, McCord, Smith, Chrm. Nesbitt
NOES:	None
ABSTAIN:	None
ABSENT:	None

The motion was approved.

The vote on the original motion as amended:

AYES:	Hale, Manning, McCord, Smith, Chrm. Nesbitt
NOES:	None
ABSTAIN:	None
ABSENT:	None

The motion was approved.

The Commission addressed the variance request for the signs.

Comm. McCord **MOVED** to continue the Variance request to July 15, 2003 with direction to the applicant to develop and submit alternative sign designs for consideration by the Planning Commission.

Comm. Smith **SECONDED**.

Comm. Hale pointed out that the applicant had indicated a desire to proceed with this part of his application. She noted that staff has stated they don't like pole signs, however neighboring businesses have pole signs of various heights and designs. She did not have a problem with allowing this applicant to have the 45 square foot pole sign proposed, provided the Commission impose that the poles be surrounded with decorative block or similar material to meet City standards.

Comm. McCord withdrew her motion to postpone this item.

Comm. Nesbitt commented that pole signs can be beautified, and the trend has been toward encasing them in aesthetically pleasing block or similar material. Although there are existing pole signs without this enhancement, he would like to see what is approved from now on improved. He would approve the larger sign if it were an aesthetically pleasing design.

Comm. Hale stated that if this sign is approved, in the spirit of cooperation the sign should not block the existing signs.

Comm. Manning **MOVED** to continue this to the July 15, 2003 meeting pending a concept design and site study.

Comm. Hale **SECONDED**.



AYES: Hale, Manning, McCord, Smith, Chrm. Nesbitt  
NOES: None  
ABSTAIN: None  
ABSENT: None

The motion was approved.

**ITEM VI: COMMUNITY DEVELOPMENT DEPARTMENT  
FOLLOW-UP REPORTS**

**A. City Council Meetings**

Director Wong reported.

**B. Future Planning Commission Meetings**

There will be a field trip on July 9, 2003 to view a predevelopment project; the next regular meeting will be July 15, 2003. There will be a special meeting on July 29, 2003 to discuss the General Plan Land Use Element.

**C. Reports**

Comm. Smith stated he felt it was important that the Planning Commission advise City Council why they oppose a project that is being appealed, so that they may review it before they hear the appeal. Planner Murray pointed out that a summary of the Commission's actions is provided to City Council in the staff report and meeting minutes.

Comm. Smith stated he felt that the minutes were "sanitized" because comments, by both the public and the Commissioners, were sometimes omitted from the minutes. He stated this disturbed him, he felt that everything that was said at a meeting was not being put into the minutes so that City Council would be aware of everything that happened.

Comm. Hale pointed out that it is impossible for the minutes to include everything that happens in a three hour public hearing. She suggested that if he felt something important had been omitted, he should bring it to the attention of staff before the meeting, and then at the meeting he could read into the minutes the information he wanted included.

Comm. Smith stated that the omission that bothered him was on the subject of the Nevada Street commercial project; he voted against the project and one of the reasons he gave that was not reported in the minutes was that

Auburn calls itself a bird sanctuary and a city that has a tree ordinance, and would like to retain a rural atmosphere. He wanted it noted that this project would bulldoze everything and the birds would leave the area. He felt it was like “lip service” toward wanting these goals of keeping our community rural, when projects were approved that seemed to conflict with the desire to maintain a certain ambiance in the community.

Comm. Manning stated it sounded like what Comm. Smith wanted was the ability to write a minority or majority report. The temptation, even unconsciously, in adding to the minutes would be to refine the argument. Things could be said in a follow-up that were only hinted at or undeveloped in the meeting, so it really is more a further argument. This would be a minority or majority report to reinforce one’s position.

Director Wong suggested that if a Commissioner finds an omission from the draft minutes in their meeting packet, they email or drop off the information before the meeting so it could be verified.

**ITEM VII: PLANNING COMMISSION REPORTS**

Comm. Smith announced that applications are available for anyone interested in being on the Fire Safe Council.

**ITEM VIII: FUTURE PLANNING COMMISSION AGENDA ITEMS**

Comm. Smith noted a recent approval by the Planning Commission for tanks and fencing at the 76 Station on Grass Valley Highway. The tank had been installed and it appeared to be much taller than what was approved. Staff will investigate and report back.

**ITEM IX: ADJOURNMENT**

The meeting was adjourned at approximately 8:48 p.m.

Respectfully submitted,

Janet Elaine Ferro, Administrative Secretary